

ASSEMBLY BILL

No. 1060

Introduced by Assembly Member Lieber

February 20, 2003

An act to amend Section 10110.1 of, and to add Section 10110.4 to, the Insurance Code, relating to life insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as introduced, Lieber. Life insurance: employees.

Existing law generally regulates the issuance and terms of life insurance policies. Existing law provides that an employer has an insurable interest in the life of any of its employees.

This bill would prohibit an employer from obtaining a life insurance policy on an employee unless it first obtains the clearly expressed consent of the employee in writing and in the employee's own words, as specified, and unless it transmits that consent to the insurer. Violation of this provision would be a crime. By creating a new crime, the bill would impose a state-mandated local program.

The bill would prohibit an insurer from issuing a policy to an employer insuring the life of an employee unless it receives this consent and notifies the employee of the issuance of the policy. The bill would provide that benefits under a policy for which this consent was not obtained are payable to the estate of the deceased employee.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10110.1 of the Insurance Code is
2 amended to read:

3 10110.1. (a) An insurable interest, with reference to life and
4 disability insurance, is an interest based upon a reasonable
5 expectation of pecuniary advantage through the continued life,
6 health, or bodily safety of another person and consequent loss by
7 reason of that person's death or disability or a substantial interest
8 engendered by love and affection in the case of individuals closely
9 related by blood or law.

10 (b) An individual has an unlimited insurable interest in his or
11 her own life, health, and bodily safety and may lawfully take out
12 a policy of insurance on his or her own life, health, or bodily safety
13 and have the policy made payable to whomsoever he or she
14 pleases, regardless of whether the beneficiary designated has an
15 insurable interest.

16 (c) ~~An~~ Except as provided in Section 10110.4, an employer has
17 an insurable interest, as referred to in subdivision (a), in the life or
18 physical or mental ability of any of its directors, officers, or
19 employees or the directors, officers, or employees of any of its
20 subsidiaries or any other person whose death or physical or mental
21 disability might cause financial loss to the employer; or, pursuant
22 to any contractual arrangement with any shareholder concerning
23 the reacquisition of shares owned by the shareholder at the time of
24 his or her death or disability, on the life or physical or mental
25 ability of that shareholder for the purpose of carrying out the
26 contractual arrangement; or, pursuant to any contract obligating
27 the employer as part of compensation arrangements or pursuant to
28 a contract obligating the employer as guarantor or surety, on the
29 life of the principal obligor. The trustee of an employer or trustee
30 of a pension, welfare benefit plan, or trust established by an
31 employer providing life, health, disability, retirement, or similar
32 benefits to employees and retired employees of the employer or its
33 affiliates and acting in a fiduciary capacity with respect to those
34 employees, retired employees, or their dependents or beneficiaries
35 has an insurable interest in the lives of employees and retired

employees for whom those benefits are to be provided. The employer shall obtain the written consent of the individual being insured.

(d) An insurable interest shall be required to exist at the time the contract of life or disability insurance becomes effective, but need not exist at the time the loss occurs.

(e) Any contract of life or disability insurance procured or caused to be procured upon another individual is void unless the person applying for the insurance has an insurable interest in the individual insured at the time of the application.

(f) Notwithstanding subdivisions (a), (d), and (e), a charitable organization that meets the requirements of Section 214 or 23701d of the Revenue and Taxation Code may effectuate life or disability insurance on an insured who consents to the issuance of that insurance.

(g) This section shall not be interpreted to define all instances in which an insurable interest exists.

SEC. 2. Section 10110.4 is added to the Insurance Code, to read:

10110.4. (a) An employer may not obtain an insurance policy insuring the life of an employee unless it first obtains the clearly expressed consent of the employee in writing and in the employee's own words, and unless it transmits that consent to the insurer. The writing shall include the employee's consent to the named beneficiary and to the specific amount payable upon the employee's death.

(b) An insurer shall not issue a policy to an employer insuring the life of an employee of that employer unless it receives the employee's written consent pursuant to subdivision (a) and notifies the employee of the issuance of the policy.

(c) Benefits on a life insurance policy for which consent was not obtained pursuant to subdivision (a) shall not be payable to the employer, but instead to the estate of the deceased employee.

(d) A violation of subdivision (a) is a misdemeanor punishable by a fine not to exceed the benefit amount under the life insurance policy.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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